

## FACTSHEET

### 2002 ELECTIONS - CANDIDATE OBJECTIONS

NOTE: This fact sheet is for informational purposes only. Refer to Sections 11-118 and 12-8 of the Hawaii Revised Statutes and other sources of the law for information on candidate objections.

#### I. OBJECTION TO CANDIDATES

Hawaii Revised Statutes (HRS) section 12-8, states that all nomination papers filed in conformity with section 12-3, HRS, shall be deemed valid unless a written objection is made to that candidate's nomination papers. Objections may be made by a registered voter, an officer of a political party whose name is on file with the Chief Election Officer, the Chief Election Officer, or the County Clerk in the case of a county election.

#### II. DEADLINE TO FILE OBJECTIONS

All objections must be filed in writing by 4:30 p.m. on the thirtieth day or the next earliest working day prior to the primary or special election. Objections by a registered voter shall be filed with the Chief Election Officer or the County Clerk (in the case of a county election). Objections by an officer of a political party shall be filed with the Clerk of the Circuit Court.

The deadlines to file objections for the 2002 elections are:

<u>Election</u>	<u>Deadline</u>
Primary Election . . . . .	4:30 p.m., Thurs., August 22, 2002
City/County Special Election (held with Primary) . . . . .	4:30 p.m., Thurs., August 22, 2002
OHA Special Election (held with General) . . . . .	4:30 p.m., Mon., October 7, 2002

#### III. RECEIPT OF NOTICE OF OBJECTION

Upon receipt of a written notice of objection, the Chief Election Officer, or the County Clerk in the case of a county office, shall notify the candidate of the objection by certified or registered mail. If an officer of a political party files an objection with the Circuit Court, an officer of the political party shall notify the candidate of the objection by registered or certified mail.

#### IV. PRELIMINARY DECISION/DETERMINATION

The Chief Election Officer, or the County Clerk in the case of a county office, must render a preliminary decision on the merits of the objection within five working days after the objection is filed/received. Prior to making this preliminary decision, the Chief Election Officer/County Clerk may hold a meeting to gather facts.

## **V. COMPLAINT FILED WITH CIRCUIT COURT**

If the Chief Election Officer, or the County Clerk in the case of a county office, decides that there are grounds for disqualification, the Chief Election Officer/County Clerk shall file a complaint with the Circuit Court within seven working days after the objection is filed/received.

If a political party objects to a candidate's nomination papers because a candidate is not a member of the party pursuant to the party's rules, an officer of the political party shall file an objection with the Circuit Court by 4:30 p.m. on the thirtieth day or the next earliest working day prior to the primary or special election.

## **VI. CIRCUIT COURT SUMMONS**

The Circuit Court shall summon the defendant (candidate) to appear before the Court not later than 4:30 p.m. on the fifth (calendar) day after service of the summons.

## **VII. CIRCUIT COURT JUDGMENT/DECISION**

The Circuit Court shall give judgment to the Chief Election Officer/County Clerk not later than 4:30 p.m. on the fourth (calendar) day from the hearing of the complaint.

A. If the Court's judgment is that the candidate should not be disqualified, then the candidate is eligible to run for office.

B. If the Court's judgment is to disqualify the candidate:

1. Judgment is prior to the close of candidate filing (ballots not printed):

The Chief Election Officer/County Clerk shall notify the chairperson of the political party of which the person was disqualified as the candidate. The political party may fill the vacancy if they provide the Chief Election Officer/County Clerk with the name of a replacement candidate within three (calendar) days of the vacancy.

2. Judgment is after the close of candidate filing (ballots already printed):

The Chief Election Officer/County Clerk shall notify the chairperson of the political party of which the person was disqualified as the candidate. The Chief Election Officer/County Clerk may order the candidate's name stricken from the ballot or order that a notice of disqualification be prominently posted at the appropriate polling places on election day.

**§11-117 Withdrawal of candidates; disqualification; death; notice.**

- (a) Any candidate may withdraw not later than 4:30 p.m. on the day immediately following the close of filing for any reason and may withdraw after the close of filing up to 4:30 p.m. on the twentieth day prior to an election for reasons of ill health. When a candidate withdraws for ill health, the candidate shall give notice in writing to the chief election officer if the candidate was seeking a congressional or state office, or the candidate shall give notice in writing to the county clerk if the candidate was seeking a county office. The notice shall be accompanied by a statement from a licensed physician indicating that such ill health may endanger the candidate's life.
- (b) On receipt of the notice of death, withdrawal, or upon determination of disqualification, the chief election officer or the clerk shall inform the chairperson of the political party of which the person deceased, withdrawing, or disqualified was a candidate. When a candidate dies, withdraws, or is disqualified after the close of filing and the ballots have been printed, the chief election officer or the clerk may order the candidate's name stricken from the ballot or order that a notice of the death, withdrawal, or disqualification be prominently posted at the appropriate polling places on election day.
- (c) In no case shall the filing fee be refunded after filing. [L 1970, c 26, pt of §2; am L 1972, c 77, §5; am L 1973, c 217, §1(ii); am L 1983, c 34, §15; am L 1990, c 7, §2]

**§11-118 Vacancies; new candidates; insertion of names on ballots.**

- (a) In case of death, withdrawal, or disqualification of any party candidate after filing, the vacancy so caused may be filled by the party. The party shall be notified by the chief election officer or the clerk in the case of a county office immediately after the death, withdrawal, or disqualification.
- (b) If the party fills the vacancy, and so notifies the chief election officer or clerk not later than 4:30 p.m. on the third day after the vacancy occurs, but not later than 4:30 p.m. on the fiftieth day prior to a primary or special primary election or not later than 4:30 p.m. on the fortieth day prior to a special, general, or special general election, the name of the replacement shall be printed in an available and appropriate place on the ballot, not necessarily in alphabetical order; provided that the replacement candidate fills out an application for nomination papers and signs the proper certifications on the nomination paper and takes either an oath or affirmation as provided by law. If the party fails to fill the vacancy pursuant to this subsection, no candidate's name shall be printed on the ballot for the party for that race.
- (c) If the ballots have been printed and it is not reasonably possible to insert an alternate's name, the chief election officer shall issue a proclamation informing the public that the votes cast for the vacating candidate shall be counted and the results interpreted as follows:
  - (1) In a primary or special primary election:
    - (A) In partisan races, if, but for candidate's vacancy, the vacating candidate would have been nominated pursuant to section 12-41(a), a vacancy shall exist in the party's nomination, to be filled in accordance with subsection (b).
    - (B) In nonpartisan races, if, but for the candidate's vacancy, the vacating candidate would have qualified as a candidate for the general or special general election ballot pursuant to section 12-41(b), the nonpartisan candidate who received the next highest number of votes shall be placed on the ballot provided that the candidate also meets the requirements of section 12-41(b).
  - (2) In a special, general, or special general election, if, but for the candidate's vacancy, the vacating candidate would have been elected, a vacancy shall exist in the office for which

the race in question was being held, to be filled in the manner provided by law for vacancies in office arising from the failure of an elected official to serve the official's full term because of death, withdrawal, or removal.

- (3) In any other case where, but for the candidate's vacancy, the vacating candidate would have been deemed elected, a vacancy shall exist in the office for which the candidate has filed, to be filled in the manner provided by law for vacancies in office arising from the failure of an elected official to serve the official's full term in office because of death, withdrawal, or removal.
- (d) The parties shall adopt rules to comply with this provision, and those rules shall be submitted to the chief election officer.
- (e) The chief election officer or county clerk in county elections may waive any or all of the foregoing requirements in special circumstances as provided in the rules adopted by the chief election officer. [L 1970, c 26, pt of §2; am L 1973, c 217, §1(jj); am L 1980, c 247, §1; am L 1983, c 34, §16; am L 1986, c 305, §1; am L 1990, c 7, §3, am L 2000, c 124, §1]

### **§12-3 Nomination paper: format; limitations.**

- (a) No candidate's name shall be printed upon any official ballot to be used at any primary, special primary, or special election unless a nomination paper was filed in the candidate's behalf and in the name by which the candidate is commonly known. The nomination paper shall be in a form prescribed and provided by the chief election officer containing substantially the following information:
  - (1) A statement by the registered voters signing the form that they are eligible to vote for the candidate;
  - (2) A statement by the registered voters signing the form that they nominate the candidate for the office identified on the nomination paper issued to the candidate;
  - (3) The residence address and county in which the candidate resides;
  - (4) The legal name of the candidate, the name by which the candidate is commonly known, if different, the office for which the candidate is running, and the candidate's party affiliation or nonpartisanship; all of which are to be placed on the nomination paper by the chief election officer or the clerk prior to releasing the form to the candidate;
  - (5) Space for the name, signature, date of birth, Social Security number, and residence address of each registered voter signing the form, and other information as determined by the chief election officer;
  - (6) A sworn certification by self-subscribing oath by the candidate that the candidate qualifies under the law for the office the candidate is seeking and that the candidate has determined that, except for the information provided by the registered voters signing the nomination papers, all of the information on the nomination papers is true and correct;
  - (7) A sworn certification by self-subscribing oath by a party candidate that the candidate is a member of the party;
  - (8) A sworn certification by self-subscribing oath, where applicable, by the candidate that the candidate has complied with the provisions of article II, section 7, of the Constitution of the State of Hawaii;
  - (9) A sworn certification by self-subscribing oath by the candidate that the candidate is in compliance with section 831-2, dealing with felons, and is eligible to run for office; and
  - (10) The name the candidate wishes printed on the ballot and the mailing address of the candidate.
- (b) Signatures of registered voters shall not be counted, unless they are upon the nomination paper having the format set forth above, written or printed thereon, and if there are separate sheets to be attached to the nomination paper, the sheets shall have the name of the candidate, the candidate's party affiliation or nonpartisanship, and the office and district for which the candidate is running placed thereon by the chief election officer or the clerk. The nomination paper and separate sheets shall be provided by the chief election officer or the clerk.

- (c) Nomination papers shall not be filed in behalf of any person for more than one party or for more than one office; nor shall any person file nomination papers both as a party candidate and as a nonpartisan candidate.
- (d) The office and district for which the candidate is running, the candidate's name, and the candidate's party affiliation or nonpartisanship may not be changed from that indicated on the nomination paper and separate sheets. If the candidate wishes to run for an office or district different from that for which the nomination paper states or under a different party affiliation or nonpartisanship, the candidate may request the appropriate nomination paper from the chief election officer or clerk and have it signed by the required number of registered voters.
- (e) Nomination papers that contain alterations or changes made by anyone other than the chief election officer or the clerk to the candidate's information, the candidate's party affiliation or nonpartisanship, the office to which the candidate seeks nomination, or the oath of loyalty or affirmation, after the nomination paper was issued by the chief election officer or clerk, shall be void and will not be accepted for filing by the chief election officer or clerk.
- (f) Nomination papers which are incomplete and do not contain all of the certifications, signatures, and requirements of this section shall be void and will not be accepted for filing by the chief election officer or clerk. [L 1970, c 26, pt of §2; am L 1973, c 217, §2(b); am L 1975, c 36, §2(2); am L 1979, c 139, §6; am L 1980, c 264, §2; am L 1983, c 34, §19; am L 1997, c 288, §1]

**§12-8 Nomination papers: challenge; evidentiary hearings and decisions.**

- (a) All nomination papers filed in conformity with section 12-3 shall be deemed valid unless objection is made thereto by a registered voter, an officer of a political party whose name is on file with the chief election officer, the chief election officer, or the county clerk in the case of a county office. All objections shall be filed in writing not later than 4:30 p.m. on the thirtieth day or the next earliest working day prior to the primary or special election.
- (b) If an objection is made by a registered voter, the candidate objected thereto shall be notified of the objection by the chief election officer or the clerk in the case of county offices by registered or certified mail.
- (c) If an objection is filed by an officer of a political party with the circuit court, the candidate objected thereto shall be notified of the objection by an officer of the political party by registered or certified mail.
- (d) Except for objections by an officer of a political party filed directly with the circuit court, the chief election officer or the clerk in the case of county offices shall have the necessary powers and authority to reach a preliminary decision on the merits of the objection; provided that nothing in this subsection shall be construed to extend to the candidate a right to an administrative contested case hearing as defined in section 91-1(5). The chief election officer or the clerk in the case of county offices shall render a preliminary decision not later than five working days after the objection is filed.
- (e) If the chief election officer or clerk in the case of county offices determines that the objection may warrant the disqualification of the candidate, the chief election officer or clerk shall file a complaint in the circuit court for a determination of the objection; provided that such complaint shall be filed with the clerk of the circuit court not later than 4:30 p.m. on the seventh working day after the objection was filed.
- (f) If a political party objects to the nomination paper filed by a candidate because the candidate is not a member of the party pursuant to the party's rules filed in conformance with section 11-63, an officer

of the party whose name appears on file with the chief election officer shall file a complaint in the circuit court for a prompt determination of the objection; provided that the complaint shall be filed with the clerk of the circuit court not later than 4:30 p.m. on the thirtieth working day or the next earliest working day prior to that election day.

- (g) If an officer of a political party whose name appears on file with the chief election officer, the chief election officer, or clerk in the case of county offices files a complaint in the circuit court, the circuit court clerk shall issue to the defendants named in the complaint a summons to appear before the court not later [than] 4:30 p.m. on the fifth day after service thereof.
- (h) The circuit court shall hear the complaint in a summary manner and at the hearing the court shall cause the evidence to be reduced to writing and shall not later than 4:30 p.m. on the fourth day after the return give judgment fully stating all findings of fact and of law. The judgment shall decide the objection presented in the complaint, and a certified copy of the judgment shall forthwith be served on the chief election officer or the clerk, as the case may be.
- (i) If the judgment disqualifies the candidate, the chief election officer or the clerk shall follow the procedures set forth in sections 11-117 and 11-118 regarding the disqualifications of candidates. [L 1970, c 26, pt of §2; am L 1973, c 217, §2(d); am L 1975, c 36, §2(4); am L 1977, c 189, §2(2); am L 1990, c 125, §1; am L 1997, c 288, §3]

This Fact Sheet is intended for informational purposes only and should not be used as an authority on the Hawaii election law and candidate deadlines. Requirements and/or deadlines may change pending changes in legislation. Consult the Hawaii Revised Statutes and other sources for more detailed and accurate requirements.

Office of Elections - FSBO114B R-05/04/99, R-05/29/01